

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

BRITTANY KILCHER,

Plaintiff,

1:19-cv-00158 (BKS/ATB)

v.

CRAIG APPLE/ALBANY COUNTY SHERIFFS
DEPARTMENT et al.,

Defendants.

Appearances:

Brittany Kilcher
Castleton-on-Hudson, NY 12033
Plaintiff, pro se

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff pro se Brittany Kilcher commenced this action on February 7, 2019, asserting claims under 42 U.S.C. § 1983. (Dkt. No. 1). This matter was assigned to United States Magistrate Judge Andrew T. Baxter, who issued a Report-Recommendation on February 25, 2019 recommending: (1) that any claims for Defendant Corey Andrus's failure to investigate and any negligence claims against any Defendants be dismissed with prejudice; (2) that the Complaint be dismissed in its entirety as to Defendant Andrus; and (3) that all other claims in the Complaint be dismissed without prejudice and with leave to file an amended complaint. (Dkt. No. 4). Magistrate Judge Baxter advised Plaintiff that under 28 U.S.C. § 636(b)(1) she had 14 days within which to file written objections to the report, and that the failure to object to the report within 14 days would preclude appellate review. (Dkt. No. 4, at 25). No objections to the Report-Recommendation have been filed.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is

ORDERED that the Report-Recommendation (Dkt. No. 4) is **ADOPTED** in its entirety; and it is further

ORDERED that any claims for Defendant Corey Andrus’s failure to investigate and any negligence claims against any Defendants are **DISMISSED with prejudice**, and it is further

ORDERED that the Complaint be dismissed in its entirety as to Defendant Andrus; and it is further

ORDERED that that all other claims in the Complaint are **DISMISSED without prejudice**; and it is further

ORDERED that Plaintiff may file an amended complaint **within THIRTY (30) days** from the date of this Order; and it is further


ORDERED that, if Plaintiff files a proposed amended complaint, the matter be returned to Magistrate Judge Baxter for further review; and it is further

ORDERED that, if Plaintiff fails to file an amended complaint or ask for an extension of time to do so within thirty (30) days of the date of this Order, the Complaint shall be dismissed in its entirety with prejudice, without further order of the Court; and it is further

ORDERED that the Clerk is directed to serve a copy of this Order upon Plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: April 8, 2019
Syracuse, New York


Brenda K. Sannes
U.S. District Judge